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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Kiyotaka ISHINO et al.

Examiner: R. Sergent

Serial No.: 09/423,523

Group Art Unit: 1711

Filed: July 5, 2000

Title: FILM FOR ACCELERATED COMPOST FERMENTATION

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Claims 4 - 9 and 12 - 15, all claims pending, remain rejected under 35 U.S.C §103 over Fleischer '024 or Werenicz '887 or WO '174, each taken with Tesch '327. These claims all recite methods of composting. Each primary reference discloses a water vapor permeable film, used in an area distinct from composting, such as roofing materials or automotive parts. See the discussion at page 3 of the Brief on Appeal. Indeed, the final rejection admits that the "primary" references fail to suggest the use of their films in the production of covers for composting. However, the Final Rejection relies upon Tesch, for its teaching of composting, arguing that it would be obvious to use the primary references' films in Tesch's utility.

Tesch teaches two different types of compost covers. The first compost cover taught in Tesch is a polymer sheet, which, where "gas permeability" is desired, may be slit by cutting. See column 4, lines 58 - 62 of the reference. Patentees teach that such slitting of the polymeric sheet provides "a fairly precise amount of *air* permeability (emphasis added), by a "precisely controlled slitting operation." (Emphasis added). See column 3, the last paragraph. Patentees

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